

**September 24, 2007**

**VIA Federal Express**

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Re: Special Notice for Remedial Investigation and Feasibility Study  
Devil's Swamp Lake Superfund Site, East Baton Rouge Parish, Louisiana  
SSID# 06N1, EPA ID LAD98115872, State Agency Interest # 86800

Dear Sir or Madam:

This letter is to invite your company to enter into negotiations with the U.S. Environmental Protection Agency (EPA) for the performance of a Remedial Investigation and Feasibility Study (RI/FS) at an area which EPA calls the Devil's Swamp Lake Superfund Site (hereinafter the Site). The Site is located in Devil's Swamp, northwest of the Baton Rouge Turning Basin in East Baton Rouge Parish, Louisiana.

In 1973, a portion of the Devil's Swamp-Ewell Property was excavated to provide soils to structurally reinforce the levee on the north end of the Baton Rouge Turning Basin, Port of Baton Rouge. The excavation formed a lake that is now referred to as Devil's Swamp Lake. The lake is about 0.8 mile long and 570 feet wide at its widest point. Measurements taken during EPA investigations show that the centerline depth ranges from 12 to 23 feet.

The Site is comprised of the lake and portions of the swamp immediately adjacent to the lake and along Bayou Baton Rouge. Based on sampling results indicating PCB contamination in Devil's Swamp Lake on October 27, 1987, the Louisiana Department of Environmental Quality (LDEQ), Water Pollution Control Division, posted signs at Devil's Swamp Lake, which advised the public to avoid swimming in the lake, and to limit consumption of fish from the lake. The lake and other parts of the swamp are currently under a swimming and fish consumption advisory last revised by LDEQ in July 9, 1993. Samples taken by EPA at the Site have also indicated PCB contamination above acceptable levels.

The Devil's Swamp-Ewell Property was brought to the attention of the EPA by Concurrent Resolution No. 17 of the State of Louisiana Senate and the Louisiana House of Representatives in 1991. On October 21, 1993, the EPA completed a site inspection and

confirmed the presence of PCBs in lake sediments, confirming findings that had been previously reported by the State and were the basis for posting a fishing and fish consumption advisory.

A Screening Level Ecological Risk Assessment was completed in 1995. In December 1999, the EPA completed a Human Health Risk Assessment and an Ecological Risk Assessment for a broad study area comprised of the Devil's Swamp, which consists of an approximate 12 square mile backwater wetland along the east side of the Mississippi River. The reports confirmed unacceptable risks related to PCB contamination on the Devil's Swamp Lake, portions of Bayou Baton Rouge downstream from the lake and portions of the Devil's Swamp property adjoining the lake.

In March 2003, the Governor of Louisiana wrote to the EPA concurring with proposing the Devil's Swamp-Ewell Property to the National Priorities List under the name of Devil's Swamp Lake.

The lake and Bayou Baton Rouge received surface water drainage and runoff from an adjacent waste disposal facility that operated under the name of Rollins Environmental Services (LA), Inc. A drainage ditch from this facility enters the lake near its north-eastern end. While EPA has not yet concluded its investigation, an extensive review of records related to the release and/or disposal of hazardous substances at this facility so far has identified you as one of several potentially responsible parties (PRPs) that contributed hazardous substances to the Site by using this facility. Documents pertaining to liability are provided on a Compact Disc (CD) as Enclosure 2 to this letter. Under the Federal Superfund law, you and the other PRPs at the Site are responsible for the costs of cleaning up the Site. The EPA has selected a cleanup approach that requires conducting a response action in the form of a Remedial Investigation and Feasibility Study (RI/FS).

On behalf of EPA, I am offering your company the opportunity to enter into RI/FS negotiations because EPA believes that your company may be responsible for the cleanup of the Site under the Superfund Law. I have enclosed a "Special Notice" (hereinafter notice) which explains that responsibility more clearly (Enclosure 1). To assist PRPs in negotiating with the EPA concerning this matter, the EPA is enclosing with this letter a list of names and addresses of other PRPs to whom it sent or is sending this Special Notice Letter. This list is found in Enclosure 3. A table listing these PRPs, their Registered Agents, Company names used at the time waste disposal activities took place, and the record number that identifies the evidentiary documents in the Superfund Document Management System is found in Enclosure 4. The notice also explains the purpose of the enclosed Draft Administrative Order on Consent for an RI/FS and Statement of Work provided as Enclosure 5.

I ask you to call EPA Attorney James Bove at (214) 665-2794 ***within fifteen (15) days of the receipt of this letter*** and let him know whether you will negotiate.

Please note that the enclosed notice requires your company to reply in writing with a

Please note that the enclosed notice requires your company to reply in writing with a good-faith offer within sixty (60) days of your receipt of this letter. The notice explains what EPA means by a good-faith offer. I urge you to read the enclosed notice carefully. If you have any questions, please contact Mr. Bove.

Sincerely yours,

Samuel Coleman, P. E.  
Director  
Superfund Division

Enclosures

cc: State LDEQ  
Natural Resources Trustee(s)  
Clean Harbors Baton Rouge, LLC  
Safety-Kleen, Inc.

*8/22/07*  
CONCURRENCE

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6SF-TE  
Aldridge  
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6SF-TE  
Johnson  
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6RC-S  
Bove  
*9/18/07*

6RC-S  
Peycke  
*9/18/07*

6SF-T  
Stenger  
*9/24/07*

6SF-R  
Parr  
*9/20/07*

6SF-R  
Hepola  
*9/20/07*

6SF-D  
Phillips  
*9/24*

Special Notice Letter

Devil's Swamp Lake

**ENCLOSURE 1**  
**SPECIAL NOTICE**  
**REMEDIAL INVESTIGATION AND FEASIBILITY STUDY**  
**DEVIL'S SWAMP LAKE SUPERFUND SITE**  
**EAST BATON ROUGE PARIS, LOUISIANA**

This "Special Notice" (hereinafter "notice") is from the U.S. Environmental Protection Agency (EPA) to each Respondent identified in the enclosed Draft Administrative Order on Consent (AOC) for a Remedial Investigation and Feasibility Study (RI/FS). See Enclosures on compact disc). This notice does four things:

1. First, this notice tells you that you may be responsible for the cleanup of hazardous substances at the Devil's Swamp Lake Superfund Site. When we say "Site" in this notice, we mean the Devil's Swamp Lake and Devil's Swamp portions immediately adjacent to the lake and Bayou Baton Rouge. This notice is issued under the Comprehensive Environmental Response, Compensation, and Liability Act which is abbreviated as "CERCLA." CERCLA is also known as Superfund.
2. Second, this notice tells you that EPA will use Special Notice procedures when it works with you. This means that, as part of these procedures, EPA will not take some types of actions at the Site for 60 days from the day you get this notice.
3. Third, this notice asks you to send EPA a good-faith offer within 60 days from the day you get this notice.
4. Fourth, this notice points out that it would help you and EPA if you would consult with other persons who may be responsible for the cleanup. A list of persons who EPA believes may be responsible is enclosed (List of Potentially Responsible Parties, on compact disc) to this notice (Refer to Section IV [Negotiation Period] and VII [PRP Organization] of this notice).

These four items are explained in more detail in the following sections, I through VII.

**I. NOTICE THAT YOU MAY BE LIABLE**

CERCLA says that four types of persons are liable for cleaning up (or paying EPA to clean up) hazardous substances that have been released. The four types of liable persons are:

1. Persons who now own the place where the hazardous substances were released (owner);

2. Persons who once owned or operated the place where the hazardous substances were released during the time when the hazardous substances were disposed (operator);
3. Persons who arranged for disposal or treatment of hazardous substances at the place where the hazardous substances were released (generator); or
4. Persons who selected the place where the hazardous substances were released as a disposal site and transported the hazardous substances to that place (transporter).

The EPA's term for these persons is Potentially Responsible Parties (PRPs). You may want to read the section of the CERCLA law which tells which persons are liable for the cost of cleaning up hazardous substances. CERCLA can be found in Title 42 of the United States Code in Sections 9601 through 9675. The part of CERCLA which tells about these responsible parties can be found at Section 9607. Definitions of terms used in CERCLA can be found in Section 9601. Section 9607 is sometimes called Section 107, the section number which it has in the act of Congress.

CERCLA also says that EPA may order PRPs to take response actions which EPA believes are needed to protect human health, welfare, or the environment. For example, EPA may issue an order (i.e., Unilateral Administrative Order) that requires a PRP to conduct a Remedial Investigation and Feasibility Study (RI/FS) to investigate the nature and extent of contamination at the Site and to develop and evaluate potential remedial alternatives. If a PRP does not comply with an EPA order, the PRP may be fined up to \$32,500 per day for each day of noncompliance. In addition, if a PRP does not comply with an EPA order, that person may also be liable for three times the amount of money which EPA spends on the cleanup.

The part of CERCLA which tells about orders which EPA may issue can be found at Section 9606 of Title 42 of the United States Code. Section 9606 gives authority to the President, but the President has delegated that authority to EPA. Section 9606 is sometimes referred to as Section 106, the section number which it has in the act of Congress.

The EPA has information (Evidence of Liability, on compact disc), which shows your company arranged for the disposal or treatment of hazardous substances at the place from which the hazardous substances were released. The EPA has information that shows that Rollins Environmental Services (LA), Inc. was the prior legal name for facility currently own by Clean Harbors Baton Rouge, LLC. Clean Harbor's July 1, 2005, response to EPA's "Special Notice Letter" of April 25, 2005, includes information about your company's business relationship with the Rollins Environmental Services (LA), Inc. Additionally, the interview of Mr. T. Louie Brown, dated December 1, 2004, indicated that Rollins Environmental Services (LA) Inc. received wastes, which could have contained hazardous materials, from numerous companies. During this time, it is known that the soils, surface water, and sediments at the disposal facility were contaminated by hazardous substances and releases were noted onto the Devil's Swamp Lake site. It is possible that other media, such as ground water, may have been or are currently

affected at the Site. If that is the case, you may be responsible for the cleanup of those media as well. You may be required to conduct an RI/FS in accordance with the Superfund Law and to furnish all necessary personnel, materials, and services necessary for, and incidental to, performance of the RI/FS.

The EPA invites you to take stock of the evidence as enclosed with this notice, (compact disc) and to enter into negotiations toward a settlement which may be in your best interests. Settling with EPA may protect you from other PRPs who may sue you to recover costs they incur in cleaning up the Site. Also, as we said above, if you choose not to settle with EPA and you are found to be a PRP, EPA may take civil administrative action against you.

## **II. REQUEST FOR PAYMENT**

The EPA has taken several actions at the Site under the Superfund program. You are responsible for reimbursing the Federal government for the response costs associated with these activities at the swamp, the lake and the bayou. These activities include, among others, preparation of the Hazard Ranking System Documentation Record, performance of searches for PRPs, performance of Site inspections and assessments, and preparation of the Draft AOC and RI/FS Statement of Work.

The total of EPA's costs through July 31, 2007, for the Site is \$4,192,502.57. The EPA's response costs are consistent with CERCLA. Under CERCLA, any PRP may have to pay all of EPA's costs. This is known as "joint and several liability."

The EPA encourages you to voluntarily negotiate a consent order in which you agree to perform the RI/FS. Please note that the EPA has omitted past costs from the draft AOC, identified below. The EPA reserves its right to recover all costs, for which PRPs are responsible under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). From October 1, 1980 through July 31, 2007, the EPA has incurred \$4,192,502.57 in costs at the Site. Pursuit of past costs is being deferred to expedite RI/FS negotiations. Please also note that the draft AOC contains certain language that is included in the event that the Devil's Swamp Lake Superfund Site is addressed as a Superfund Alternative Site. This language is found in Section XV and Paragraphs 91 and 92 of Section XXIII of the draft AOC.

## **III. NEGOTIATION PERIOD**

Under CERCLA, EPA may use Special Notice procedures when EPA believes these procedures would help EPA reach an agreement with PRPs. The Special Notice procedures are described in Title 42 of the United States Code at Subsection 9622(e). The powers given to the President by CERCLA Subsection 9622(e) have been delegated to EPA. Subsection 9622(e) is sometimes called Subsection 122(e), the section number which it has in the act of Congress.

The EPA has decided that Special Notice procedures may help EPA and the PRPs reach a settlement for this Site. As part of the Special Notice procedures, EPA will not take some types

of actions at the Site for 60 days from the day you get this notice. During these 60 days, EPA invites you to settle some of EPA's claims. The EPA will extend this 60-day time for 30 more days if EPA gets a good-faith offer from you in 60 days from the day you receive this notice. The things which you must include in a good-faith offer are described in Section IV (Good-Faith Offer) of this notice.

If you and EPA reach settlement within the 90-day negotiation period (it is a 90-day period because it includes the first 60-day period plus the 30-day period which EPA may add if you submit a good-faith offer), the settlement will be written as an EPA Administrative Order on Consent (AOC) for an RI/FS. The AOC would be issued by the Superfund Division Director, EPA, Region 6.

To help negotiations get started, EPA has enclosed a Draft AOC (Enclosure 5 and also on the compact disc) written specifically for the Devil's Swamp Lake Superfund Site. The Draft AOC includes a Draft RI/FS Statement of Work (SOW)(compact disc) which describes the work that needs to be done. The work includes the performance of an RI/FS to investigate the nature and extent of contamination at the Site and to develop and evaluate potential remedial alternatives in accordance with the Superfund Law and EPA's guidance.

#### **IV. GOOD-FAITH OFFER**

The enclosed Draft AOC and SOW should help you make a good-faith offer to perform and finance the RI/FS for the Site.

In order for your offer to be a good-faith offer, it must be in writing and it must include these things:

1. An unconditional statement that you are willing to perform or finance the RI/FS. Your statement must reference the requirements of EPA's Draft AOC and SOW. Your statement must be a good basis for more negotiations.
2. Proof that you (or the party you will hire to do the work) have the technical skills to do the RI/FS. If you will hire another party please tell us who, or tell us how you will pick that party.
3. A written statement that you are willing to pay EPA for costs incurred in overseeing the conduct of the RI/FS.
4. Proof that you can pay for the RI/FS (an audited annual report may suffice).
5. A statement that you are willing to begin work on the RI/FS in keeping with the schedule set forth in the attached Draft AOC and RI/FS SOW.

6. A general work plan which describes how and when you will do the major parts of the RI/FS described in the Draft AOC and RI/FS SOW.
7. The name, address, and telephone number of the party or steering committee representative who will represent you and any other PRPs in negotiations, if you will use a representative.

If we decide that a good-faith offer has not been submitted within 60 days from the day you get this letter, we may end the negotiation period and begin response or enforcement actions.

#### **V. WHERE TO SEND YOUR GOOD-FAITH OFFER AND WHO TO CALL AT EPA**

Please call EPA attorney James Bove at (214) 665-2794 within 15 days of receipt of this correspondence to discuss making a good-faith offer. Please let Mr. Bove know whether you will participate in negotiations about the RI/FS for the Site. Please send your good-faith offer to Mr. Bove at the address listed below. As we said above, you have 60 days from your receipt of this notice to send EPA a written good-faith offer. You may respond alone or through a steering committee.

#### **VI. PRP ORGANIZATION**

You and the other PRPs may be liable for EPA's costs plus interest if EPA performs the RI/FS (or any other action for the Site). Information about other parties who have received notice for this site is enclosed (Enclosure 3 and 4). Also included are the SNL responses that previously noticed PRPs have submitted (compact disc). It would expedite negotiations if you and other PRPs would meet and form a steering committee. The steering committee should represent all of the PRPs. If you cannot form a steering committee, it would be helpful if each PRP would select one person to represent it. Your good-faith offer may be made by you alone or through a steering committee.

If EPA does not receive a good-faith offer from you within 60 days from your receipt of this notice, EPA will assume that you do not wish to negotiate. The EPA may then take response or enforcement actions as explained above in Section I (Notice That You May be Liable) of this notice.

#### **VII. PRP RESPONSE**

You should send your response to this notice to:

Mr. James Bove, Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue, Suite 1200 (6RC-S)  
Dallas, Texas 75202-2733



Phone (214) 665-2794, Facsimile (214) 665-6460  
E-Mail Address – [bove.james@epa.gov](mailto:bove.james@epa.gov)

The discussions of fact or law in this notice are meant to help you understand CERCLA and EPA's actions at the Site. The discussions of fact and law are not final EPA positions on any matter discussed in this notice. If you or your attorney have any legal questions about this notice, please contact Mr. Bove. If you have any other questions regarding this letter, you may contact Ms. Barbara Aldridge, Enforcement Officer, at (214) 665-2712.

Questions concerning the technical aspects of the Draft RI/FS SOW (Appendix A of the Draft AOC) should be directed to:

Mr. Bartolome Cañellas (Remedial Project Manager)  
U.S. Environmental Protection Agency, Region 6  
Superfund Division, Remedial Branch (6SF-RL)  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733  
(214) 665-6662, Facsimile (214) 665-6660  
E-Mail Address – [canellas.bart@epa.gov](mailto:canellas.bart@epa.gov)

## ENCLOSURE 2

### Compact Disc with copy of evidentiary documents.

EPA Superfund Document Management System (SDMS) records (Originally submitted to Clean Harbors and Safety-Kleen):

SDMS Record #	Title	Date
161472	Response General Notice Letter/104(e) from Clean Harbors	02/09/2004
172195	Reference 5 to Response General Notice from Clean Harbors "Results of the June 1994 Sampling of the Former NPDES 001 Outfall Channel"	08/31/2004
164101	Hazard Ranking System ("HRS) documentation record	02/01/2004
171446	Solid waste disposal cells where PCBs containing material have been reported and offsite surface drainage patterns	09/06/2004
172228	Report on the operational protocol of the landfill and landfarm waste disposal operations of Rollins Environmental Services, Inc.	04/14/1980
172424	NPDES permit LA0038245 for Rollins	03/15/1985
175582	Transmittal of Safety-Kleen response to EPA	09/30/ 2004
181573	Interview of T. Louie Brown taken December 1, 2004	12/01/2004
182276	Aerial Photographic Analysis of Devil's Swamp Lake	11/01/2004
182278	Immunoassay screening of sediment cores for PCBs USGS Open-File Report 2004-1397	12/06/2004
182318	Interview William A Fontenot Revised/Final	08/24/2004
182565	Memorandum to Pat Norton	03/21/1980
919143	Memorandum regarding presence of PCBs	10/14/1985
924490	Safety-Kleen response to EPA	09/30/2004
972544	LDEQ inspection report for Rollins Environmental Services and Devil's Swamp Lake	07/18/1986

More recent EPA fileroom additional records:

950528	Draft Administrative Order on Consent for RI/FS and Statement of Work submitted with the 2005 Special Notice Letters (SNL) sent to Clean Harbors Environmental Services Incorporated, and Safety-Kleen Systems Incorporated	
186826	SNL to Clean Harbors Environmental Services, Inc.	04/26/2005
186827	SNL to Safety-Kleen Systems, Inc.	04/26/2005
190393	Clean Harbors good faith offer response to SNL	07/01/2005

Additional information provided as part of Clean Harbors response to SNL:

SDMS

<u>Record #</u>	<u>Title</u>	<u>Date</u>
	Response to 104-(e) Request for Information – Information/records provided by Clean Harbors as part of their response to SNL (see document 190393)	
190395	Generator - Allied Chemical Company	03/01/2005
951807 through 951816	Other generators	03/01/2005
951837 through 9518 93	Other generators	03/01/2005
207812	Health Consultation for Devil's Swamp Lake (prepared by the 08/29/2006 U.S. Department of Health and Human Services)	
212388	Sources of Polychlorinated Biphenyls to Devil's Swamp Lake Near Baton Rouge, Louisiana. Scientific Investigation Report 2006-5301 (prepared by the U.S. Geological Survey)	12/01/2006
218017	DRAFT – MASTER FILE FOR SPECIAL NOTICE LETTER – SEPTEMBER 2007 – ADDITIONAL PRPS, DEVIL'S SWAMP LAKE	01/01/2525

### ENCLOSURE 3

#### **List of Potentially Responsible Parties receiving a Special Notice Letter concerning the Devil's Swamp Lake Superfund Site**

##### Parties Previously Noticed on April 26, 2005

1. Clean Harbors Baton Rouge, LLC  
  
Mr. R. Craig Lackey  
Vice President and Chief Counsel  
Environmental Law & Litigation  
Clean Harbors Environmental Services, Inc.  
Law Department  
200 Arbor Lake Drive, Suite 300  
Columbia, South Carolina 29223
2. Safety-Kleen Systems, Inc.  
  
Mr. Virgil W. Duffie, III  
Chief Corporate Counsel, Environmental  
Safety-Kleen Systems, Inc.  
5400 Legacy Drive, Cluster II, Building 3  
Plano, Texas 75024

##### Other Parties Receiving this Notice

CURRENT NAME	STREET ADDRESS	CITY	STATE	ZIP
Honeywell	5525 Highway 3115	Carville	LA	70721
Dow Chemical	21255 LA HWY 1	Plaquemine	LA	70764
Ethyl Corporation	330 S. Fourth St	Richmond	VA	23219
Minnesota Power	30 West Superior Street	Duluth	MN	55802
PolyMet Mining C.	6500 County Road 666	Hoyt Lakes	MN	55705
Commonwealth Edison Co.	10 S Dearborn, 37th Floor	Chicago	IL	60603
Orlando Utilities	500 S Orange Ave	Orlando	FL	32801

<b>CURRENT NAME</b>	<b>STREET ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>
Commission				
The Mosaic Company	3033 Campus Dr, Suite E490	Plymouth	MN	55441
ExxonMobil Chemical	13501 Katy Freeway	Houston	TX	77079-1398
International Paper Company	6400 Poplar Avenue	Memphis	TN	38197
Fru-Con Construction Corp	15933 Clayton Rd	Ballwin	MO	63011
General Electric Company	3135 Easton Turnpike	Fairfield	CT	06828
Metso Minerals	20965 Crossroads Cir	Waukesha	WI	53186
General Motors Corporation	300 Renaissance Ave	Detroit	MI	48265
CLECO Power LLC	2030 Donahue Ferry Rd	Pineville	LA	71360-5226
Arkema	2000 Market Street	Philadelphia	PA	19103-3222
Owens-Illinois	One Seagate, 5th Flr	Toledo	OH	43666
Bryant Electric Co.	215 Balfour Drive	High Point	NC	27263
Johnson City Power Board	2600 Boones Creek Rd.	Johnson City	TN	37615
Georgia Pacific	133 Peachtree Street N.E.	Atlanta	GA	30303
Georgia Power	241 Ralph McGill Boulevard	Atlanta	GA	30308
Southwire Company	One Southwire Dr.	Carrollton	GA	30119
Entergy New Orleans, Inc	639 Loyola Avenue	New Orleans	LA	70113
Graphic Packaging International, Inc	814 Livingston Court	Marietta	GA	30067
Great Southern Paper Co	133 Peachtree Street NE	Atlanta	GA	30303
The Sullivan Corporation	460 Cardinal Lane	Hartland	WI	53029
Pratt & Whitney Space Propulsion	17000 Bee Line Hwy.	Jupiter	FL	33478
Shell Chemical	7594 Highway 75	Geismar	LA	70734

<b>CURRENT NAME</b>	<b>STREET ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>
Smurfit- Stone Container	150 N. Michigan Ave	Chicago	IL	60601
Durango Paper Company Inc, dba Durango-Georgia	1000 Osborne St	St. Mary's	GA	31558
Eastman Chemical Co.	1 Eastman Rd	Kingsport	TN	37662
Texas Eastern Transmission, LP	5400 Westheimer Ct	Houston	TX	77056
Chevron Corporation	6001 Bollinger Canyon Rd	San Ramon	CA	94583
Union Carbide	400 W Sam Houston Pkwy, S.	Houston	TX	77042
USX Corporation	5700 Valley Rd	Fairfield	AL	35064
Alcatel-Lucent	600 Mountain Ave. Att: Environmental Health	Murray Hill,	NJ	07974
CBS Corporation	1515 Broadway	New York	NY	10036
Cos-Mar Company	Hwy 75 River Road	Carville	LA	70721
Winn-Dixie Stores, Inc.	5050 Edgewood Court	Jacksonville	FL	32254
W.R. Grace & Company	7500 Grace Drive	Columbia	MD	21044
Wyeth	Five Giralda Farms	Madison	NJ	07940-0874
BASF	100 Campus Dr	Florham Park	NJ	07932
American Sugar Refining, Inc.	One Federal Street	Yonkers	NY	10702
Bechtel Inc.	50 Beale St	San Francisco	CA	94105
Goodrich Corp	Four Coliseum Centre, 2730 West Tyvola Rd	Charlotte	NC	28217-4578
Bliss Waste Oil Co.,	149 Strecker Rdo	Ellisville	MO	63011
Buckeye Technologies, Inc.	1001 Tillman	Memphis	TN	38112
CLECO	2030 Donahue Ferry Rd	Pineville	LA	71360-5226
Kuhlman Electric	101 Kuhlman Blvd	Versailles	KY	40383
CF Industries	1 Salem Lake Drive	Long Grove	IL	60047

<b>CURRENT NAME</b>	<b>STREET ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>
Holdings, Inc.				
PDV American, Inc	One Warren Place	Tulsa	OK	74136
Entergy Mississippi, Inc	308 E. Pearl St	Jackson	MS	39201
Monsanto Company	800 N. Lindbergh Blvd	St. Louis	MO	63167
Ensco, Inc	5400 Port Royal Road	Springfield	VA	22151
Chevron Corporation	6001 Bollinger Canyon Rd	San Ramon	CA	94583
Entergy Gulf States, Inc	350 Pine Street	Beaumont	TX	77701
Hercules Inc	Hercules Plaza, 1313 North Market Street	Wilmington	DE	19894
Ireco, LLC	805 Golf Lane	Bensenville	IL	60106
Jacksonville Electric Authority	21 West Church Street	Jacksonville	FL	32202-3155
Deere & Company	One John Deere Place	Moline	IL	61265
Johns-Manville Corporation	717 17th Street	Denver	CO	80202
Warner-Robins AFB	c/o Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice 601 D Street NW (Room 8146)	Washington	DC	20004
US Navy, South Port, N.C.	c/o Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice 601 D Street NW (Room 8146)	Washington	DC	20004
Pensacola N.A.S & Whiting Field, Pensacola, FL	c/o Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice 601 D Street NW (Room 8146)	Washington	DC	20004

#### **ENCLOSURE 4**

**List of Potentially Responsible Parties receiving a  
Special Notice Letter, their Registered Agents,  
Names of the companies at the time of disposal  
And evidentiary documents identification numbers**



**List of Potentially Responsible Parties receiving a  
Special Notice Letter, their Registered Agents,  
Names of the companies at the time of disposal  
And evidentiary documents identification numbers**

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	Current Name	Street Address	City	State	Zip	Registered Agent	Street Address	City	State	Zip	Party Type	Company Name From Source Documents	SDMS ID
3	Honeywell	5525 Highway 3115	Carville	LA	70721	CT Corporation System	8549 United Plaza Blvd.	Baton Rouge	LA	70808	P	Allied Chemical Company, Geismar, LA	190395
4	Dow Chemical Co.	21255 LA Highway 1	Plaquemine	LA	70764-5125	CT Corporation System	8550 United Plaza Blvd	Baton Rouge	LA	70809	P	Dow Chemical Company, Baton Rouge, LA	951807
5	Ethyl Corporation	330 S. 4th St.	Richmond	VA	23219-4350	CT Corporation System	8550 United Plaza Blvd.	Baton Rouge	LA	70809	P	Ethyl Corporation, Baton Rouge, LA	951809
6	Minnesota Power	30 West Superior Street	Duluth	MN	55802	Allete, Inc.	30 West Superior St.	Duluth	MN	55802	P	Erie Mining, Hoyt Lakes, MN	951809
7	PolyMet Mining Corp.	6500 County Road 666	Hoyt Lakes	MN	55705-0475	James Henrichson	215 NW 1st Ave.	Grand Rapids	MN	55744	P	Commonwealth Edison Co. Chicago, IL	951809
8	Commonwealth Edison Co.	10 S Dearborn, 37th Floor	Chicago	IL	60603-2300	Joan M Fencik	10 S Dearborn, 37th Floor	Chicago	IL	60603	P	Orlando Utilities Commission, Orlando, FL	951809
9	Orlando Utilities Commission	500 S Orange Ave	Orlando	FL	32801-3708						P	Freeport Sulphur Company, Freeport, TX	951809
10	The Mosaic Company	3033 Campus Dr, Suite E490	Plymouth	MN	55441-2651	CT Corporation System	405 2nd Ave. S	Minneapolis	MN	55401	P	Exxon Chemical Company, Houston, TX	951810
11	Exxon Mobil Chemical	13501 Katy Freeway	Houston	TX	77079-1398	Registered Agent	PO Box 3272	Houston	TX	77253	P	International Paper Company	951874
12	International Paper Company	6400 Poplar Avenue	Memphis	TN	38197	CT Corporation System	1633 Broadway	New York	NY	10019	P	St Regis Paper Company, Cantonment, FL	951844
13											P	St Regis Paper Company, Pensacola, FL	951844
14											P	Champion Paper Portland, OR	951810
15											P	Fruin-Colnon Corporation, Memphis, TN	951812
16	Fru-Con Construction Corp	15933 Clayton Rd.	Ballwin	MO	63011-2372	CT Corporation System	800 S. Gay St.	Knoxville	TN	37929	P	General Electric Company, Baton Rouge, Bossier City, New Orleans	951813
17	General Electric Company	3135 Easton Turnpike	Fairfield	CT	6828-0002	CT Corporation System	One Corporate Center, Floor 11	Hartford	CT	06103-3220	P	General Electric Co, Shreveport, LA	951813
18											P	General Electric, Jacksonville, FL	951813
19											P	General Electric, Jacksonville, FL	951813
20											P	General Electric, Jacksonville, FL	951813

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	A	B	C	D	E	F	G	H	I	J	K	L	M
1	Current Name	Street Address	City	State	Zip	Registered Agent	Street Address	City	State	Zip	Party Type	Company Name From Source Documents	SDMS ID
21	Metso Minerals	20965 Crossroads Cir	Waukesha	WI	53186-4083	CT Corporation System	8025 Excelsior Dr Suite 200	Madison	WI	53717	P	McNally Pittsburg Mfg. Company	951884
22											P	McNally, Pittsburg	951852
23											P	McNally - Pittsburg Mfg Co., Tuscaloosa, Ala	951813
24	General Motors Corporation	300 Renaissance Ave.	Detroit	MI	482653000	The Corporation Co.	30600 Telegraph Rd., Suite 2345	Bingham Farms	MI	48025	P	General Motors Corporation	951814
25											P	General Motors	951814
26											P	G.M., Bay City, M	951814
27											P	G.M., Bedford, IN	951814
28	CLECO Power LLC	2030 Donahue Ferry Rd.	Pineville	LA	71360-5226	R. O'Neal Chadwick Jr.	2030 Donahue Ferry Rd	Pineville	LA	71360-5226	P	Central Electric, New Iberia, LA	951814
29	Arkema Inc.	2000 Market Street	Philadelphia	PA	19103-3222						P	Pennwalt Corp., Calvert City, KY	951814
30	Owens-Illinois	One Seagate, 5th Floor	Toledo	OH	43666-0001	CT Corporation System	3 Winners Circle, 3rd Floor	Albany	NY	12205	P	Owens-Illinois, Lakeland, FL	951840
31	Bryant Electric Company Inc.	215 Balfour Drive	High Point	NC	272633117	CT Corporation System	225 Hillsborough Street	Raleigh	NC	27603	P	Bryant Electric Co., High Point NC	951840
32	Johnson City Power Board	2600 Boones Creek Rd.	Johnson City	TN	37615						P	Johnson City Power Board, Johnson City, TN	951840
33	Georgia Pacific	133 Peachtree Street N.E.	Atlanta	GA	30303	CT Corporation System	1201 Peachtree St N.E.	Atlanta	GA	30361	P	Georgia Pacific	951815
34	Georgia Power	241 Ralph McGill Boulevard	Atlanta	GA	30308	Terry Hodges	241 Ralph McGill Boulevard	Atlanta	GA	30308	P	Georgia Power	951816
35	Southwire Company	One Southwire Dr.	Carrollton	GA	30119	William V. Hearnburg	One Southwire Drive	Carrollton	GA	30119	P	National Southwire	951837
36	Entergy New Orleans, Inc	639 Loyola Avenue	New Orleans	LA	70113	Masinter Renee	639 Loyola Avenue, 26th Floor	New Orleans	LA	70113	P	New Orleans Public Service	951838
37	Graphic Packaging International, Inc	814 Livingston Court	Marietta	GA	30067	Prentice-Hall Corporation	40 Technology Pkwy South, #300	Norcross	GA	30092	P	Olinkraft, West Monroe, LA	951839
38	Great Southern Paper Co.	133 Peachtree Street NE	Atlanta	GA	30303	CT Corporation System	1201 Peachtree St NE	Atlanta	GA	30361	P	Great Southern Paper Co, Cedar Springs, GA	951841
39	The Sullivan Corporatio	460 Cardinal Lane	Hartland	WI	53029	Jerome D. Sullivar	460 Cardinal Lane	Hartland	WI	53029	P	Gartland Foundry Inc, Waukesha, Wisc.	951841

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40	Pratt & Whitney Space Propulsion	17000 Bee Line Hwy.	Jupiter	FL	33478	CT Corporation System	1200 S. Pine Island Rd	Plantation Key	FL	33324	P	Pratt & Whitney	951842
41	Shell Chemical Company	7594 Highway 75	Geismar	LA	70734-3505	Corporation Service Co.	320 Somerulos	Baton Rouge	LA	70802	P	Shell Oil	951843
42											P	Shell Geismar, LA	951843
43	Smurfit-Stone Container	150 N. Michigan Ave.	Chicago	IL	60601-7553	CT Corporation System	1201 Peachtree St NE	Atlanta	GA	30361	P	Cont'l Forest Ind, Port Westworth, GA	951844
44	Durango Paper Company Inc. dba Durango-Georgia	1000 Osborne St.	St. Mary's	GA	31558	Mike Newsom	1000 Osborne St	St. Mary's	GA	31558	P	Gilman Paper Co., St. Marys, GA (purchased by the Durango Paper Company in 1999 and renamed the Durango-Georgia Company in 2000, closed in 2002)	951844
45	Eastman Chemical Co.	1 Eastman Rd.	Kingsport	TN	37662	CT Corporation System	530 Gay St	Knoxville	TN	37902	P	Tennessee Eastman Company, Kingsport, TN	951845
46											P	Tenn Eastman Co, Kingsport, TN	951845
47	Texas Eastern Transmission, LP	5400 Westheimer Ct.	Houston	TX	77056	CT Corporation System	1021 Main St., Suite 1150	Houston	TX	77002	P	Texas Eastern Transmission	951846
48											P	Texas Eastern Transmission	951846
49	Chevron Corporation	6001 Bollinger Canyon Rd	San Ramon	CA	94583	H. P. Walker	575 Market St	San Francisco	CA	94105	P	Gulf Oil	951869
50											P	Texaco	951847
51	Union Carbide	400 W Sam Houston Pkwy, S.	Houston	TX	77042	CT Corporation System	8550 United Plaza Blvd	Baton Rouge	LA	70809	P	Union Carbide	951849
52	USX Corporation	5700 Valley Rd	Fairfield	AL	35064	The Corporation Co.	60 Commerce St	Montgomery	AL	36103	P	United States Steel Corporation, Fairfield, AL	951850
53	Alcatel-Lucent	600 Mountain Ave. Att: Environmental Health	Murray Hill,	NJ	07974						P	Western Electric	951851
54	CBS Corporation	1515 Broadway	New York	NY	10036	Corporation Service Co	80 State Street	Albany	NY	12207-2543	P	Westinghouse Electric Corporation, B'ham, AL	951852
55	Cos-Mar Company	Hwy 75 River Road	Carville	LA	70721						P	Cosmar	951852

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1	Current Name	Street Address	City	State	Zip	Registered Agent	Street Address	City	State	Zip	Party Type	Company Name From Source Documents	SDMS ID
56	Winn-Dixie Stores, Inc.	5050 Edgewood Cour	Jacksonville	FL	32254	Corporation Service Co	2711 Centerville Rd, Suite 400	Wilmington	DE	19808	P	Winn Dixie Stores, Inc., Pompano Beach & Lakeland, FL	951853
57	W.R. Grace & Company	7500 Grace Drive	Columbia	MD	21044	The Prentice-Hall Corporation System	11 East Chase Stree	Baltimore	MD	21202	P	W.R. Grace & Company, Midland, MI	951854
58	Wyeth Pharmaceuticals	5 Giralda Farms	Madison	NJ	07940-0874	The Prentice-Hall Corporation System	100 Peachtree Stree	Atlanta	GA	30303	P		951856
59	BASF	100 Campus Dr.	Florham Park	NJ	07932	CT Corporation System	1201 Peachtree St NE	Atlanta	GA	30361	P	American Cyanamid, Savannah, GA	951856
60	American Sugar Refining, Inc	One Federal Stree	Yonkers	NY	10702	Corporate Creations Network, Inc.	131 A Stony Circle St 50C	Santa Rosa	CA	95401	P	Am Star, Arabi, LA (AMSTAR Corp)	951857
61	Bechtel Inc.	50 Beale St	San Francisco	CA	94105	CT Corporation System	1201 Peachtree St NE	Atlanta	GA	30361	P	Bechtel Inc., Savannah, GA	951858
62	Goodrich Corp	Four Coliseum Centre, 2730 West Tyvola Rd	Charlotte	NC	28217-4578	Corporation Service Co	327 Hillsborough St	Raleigh	NC	27603	P	B.F. Goodrich	951859
63	Bliss Waste Oil Co., Ellisville, MO	149 Strecker Rd.	Ellisville	MO	63011						P	Bliss Waste Oil Co., Ellisville, MO	951860
64	Buckeye Technologies, Inc	1001 Tillman	Memphis	TN	38112						P	Buckeye Cellulose	951861
65	CLECO	2030 Donahue Ferry Rd.	Pineville	LA	71360-5226	Michael H. Madison	2030 Donahue Ferry Rd	Pineville	LA	71360-5226	P	Central Louisiana Electric Company (CLECO)	951862
66	Kuhlman Electric	101 Kuhlman Blvd	Versailles	KY	40383	(Previous) CT Corporation System	818 West Seventh St	Los Angeles	CA	90017	P	Kuhlman Electric, Crystal Springs, MS	951879
67	CF Industries Holdings, Inc.	1 Salem Lake Drive	Long Grove	IL	60047	CT Corporation System	208 SO Lasalle St, Suite 814	Chicago	IL	60604-1101	P	C.F. Industries, Plaquemine, LA	951864
68	PDV American, Inc.	One Warren Place	Tulsa	OK	74136	The Corporation Trust Company	1209 Orange St	Wilmington	DE	19801	P	Cities Service Oil and Gas Corporation, W. LC., LA	951865
69	Entergy Mississippi, Inc.	308 E. Pearl St	Jackson	MS	39201	James W. Snider Jr.	308 East Pearl St	Jackson	MS	39201	P	Mississippi Power and Light	951866
70	Monsanto Company	800 N. Lindbergh Blvd	St. Louis	MO	63167	CT Corporation System	906 Olive Stree	St Louis	MO	63101	P	Monsanto Company, St. Louis	951867
71	Ensco, Inc.	5400 Port Royal Roac	Springfield	VA	22151	Milan Bogdanovic	5400 Port Royal Rc	Springfield	VA	22151	P	ENSco Inc., American Oil Road, El Dorado, AF	951868
72	Chevron Corporator	6001 Bollinger Canyon Rd	San Ramon	CA	94583	H. P. Walker	575 Market St	San Francisco	CA	94105	P	Gulf Oil	951869
73	Entergy Gulf States, Inc	350 Pine Street	Beaumont	TX	77701	John Braymer	446 North Blvd	Baton Rouge	LA	70808	P	Gulf States, St Gabriel, LA	951870
74	Hercules Inc.	Hercules Plaza, 1313 North Market Stree	Wilmington	DE	19894	CT Corporation System	8550 United Plaza Blvc	Baton Rouge	LA	70809	P	Hercules Inc., Lake Charles, LA	951872

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1	Current Name	Street Address	City	State	Zip	Registered Agent	Street Address	City	State	Zip	Party Type	Company Name From Source Documents	SDMS ID
75	Ireco, LLC	805 Golf Lane	Bensenville	IL	60106	SCN&R Registered Agent Inc.	233 South Wacker Drive	Chicago	IL	60606	P	Hercofina Plaquemine, L/	951873
76	Jacksonville Electric Authority	21 West Church Street	Jacksonville	FL	32202-3155						P	Jacksonville Electric Company/Jacksonville Electric Authority	951875
77	Deere & Company	1 John Deere Place	Moline	IL	61265	CT Corporation System	2222 Grand Ave	Des Moines	IA	50312	P	John Deere Waterloo Tractor	951876
78	Johns Manville Corporation	717 17th Street	Denver	CO	80202-3330	Prentice-Hall Corp System Inc.	1560 Broadway	Denver	CO	80202	P	Johns Manville, Cleburne, TX	951877
79	Warner-Robins AFB			GA	31098	Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice	601 D Street NW (Room 8146)	Washington	DC	20004	F	Robins AFB, GA	951841
80	US Navy, Southport, N.C.			NC		Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice	601 D Street NW (Room 8146)	Washington	DC	20004	F	US Navy, South Port, N.C	951841
81	Pensacola N.A.S & Whiting Field, Pensacola, FL			FL		Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice	601 D Street NW (Room 8146)	Washington	DC	20004	F	Pensacola N.A.S & Whiting Filed, Pensacola, FL	951841
82													
83													
84	<b>Key to Excel Spreadsheet for Devil's Swamp Lake</b>												
85													
86	Columns A-E: Current names and addresses of the parties for the notice letter mailing list.												
87	Columns F-J: Registered Agent, if any, for the column A-E entities.												
88	Column K: Marked P for private, or F for Federal party												
89	Column L: Original name from the source documents as submitted by Clean Harbors found at SDMS #190393. Note: a party in column A may have multiple related parties in column L.												
90	Column M: SDMS # of image of Column A & L parties' evidence.												

**ENCLOSURE 5**

**Draft Administrative Order on Consent for RI/FS and  
Statement of Work  
Devil's Swamp Lake Superfund Site**

Note:

See EPA SDMS record 950528 (in the enclosed compact disc CD) for copy of the draft Administrative Order originally sent to Clean Harbors and Safety-Kleen.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

IN THE MATTER OF:

Devil's Swamp Lake Superfund Site  
East Baton Rouge Parish, Louisiana

) ADMINISTRATIVE ORDER ON  
) CONSENT FOR REMEDIAL  
) INVESTIGATION/FEASIBILITY STUDY  
)  
)  
) U.S. EPA Region 6  
) CERCLA Docket No. 06-\_\_\_\_  
)  
) Proceeding Under Sections 104, 106, 107  
) and 122 of the Comprehensive  
) Environmental Response, Compensation,  
) and Liability Act as amended  
) (42 U.S.C. §§ 9604, 9606, 9607  
) 9622).

ADMINISTRATIVE ORDER ON CONSENT  
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY

**I. JURISDICTION AND GENERAL PROVISIONS**

1. This Administrative Order on Consent ("Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA"), **and those persons, corporations, or other entities listed in Appendix A** ("Respondents"). The Order concerns the preparation and performance of a remedial investigation and feasibility study ("RI/FS") at the Devil's Swamp Lake Superfund Site ("Site"), located in East Baton Rouge Parish, Louisiana, and the reimbursement for future response costs incurred by EPA in connection with the RI/FS.

2. This Order is issued under the authority vested in the President of the United States by Sections 104, 106, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9606, 9607, and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to the Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated by the Regional Administrator to the Director, Superfund Division, by EPA Regional Delegation No. R6-14-14-C (June 8, 2001).

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the relevant Federal and/or State natural resource trustees] on **April 13, 2005**, of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal and/or State trusteeship.

4. EPA and Respondents recognize that this Order has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Order do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Order. Respondents agree to comply with and be bound by the terms of this Order and further agree that they will not contest the basis or validity of this Order or its terms.

## **II. PARTIES BOUND**

5. This Order applies to and is binding upon EPA and upon Respondents and their agents, successors, assigns, officers, directors and principals. Any change in the ownership or corporate status of a Respondent, including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent's responsibilities under this Order.

6. Respondents are jointly and severally liable for carrying out all activities required by this Order. In the event of the insolvency or other failure of any one or more Respondents to implement the requirements of this Order, the remaining Respondents shall complete all such requirements.

7. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondents shall be responsible for any noncompliance with this Order.

8. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to execute and legally bind Respondents to this Order.

## **III. STATEMENT OF PURPOSE**

9. In entering into this Order, the objectives of EPA and Respondents are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation as more specifically set forth in the Statement of Work ("SOW") attached as Appendix A to this Order; (b) to identify



and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study as more specifically set forth in the SOW in Appendix A to this Order; and (c) to recover response and oversight costs incurred by EPA with respect to the Site.

10. The Work conducted under this Order is subject to approval by EPA and shall provide all appropriate and necessary information to assess Site conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 (“NCP”). Respondents shall conduct all Work under this Order in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures.

#### **IV. DEFINITIONS**

11. Unless otherwise expressly provided herein, terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. “CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. “Day” shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. “Effective Date” shall mean the effective date of this Order as provided in Section XXIX.

d. “EPA” shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. “Future Response Costs” shall mean all costs, including, but not limited to direct and indirect costs that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry (“ATSDR”) costs, the costs incurred pursuant to Paragraph 56 (costs and attorneys fees and any monies paid

to secure access, including the amount of just compensation), Paragraph 42 (emergency response), and Paragraph 88 (Work takeover).

f. “Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

g. “LDEQ” shall mean the Louisiana Department of Environmental Quality and any successor departments or agencies of the State of Louisiana.

h. “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

i. “Order” shall mean this Administrative Order on Consent, the SOW, all appendices attached hereto (listed in Section XXIX), any amendments pursuant to Section XXXI of this Order, and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Order upon approval by EPA. In the event of conflict between this Order and any appendix or other incorporated documents, this Order shall control.

j. “Paragraph” shall mean a portion of this Order identified by an Arabic numeral.

k. “Parties” shall mean EPA and Respondents.

l. “RCRA” shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

m. “Respondents” shall mean those persons, corporations, or other entities listed in Appendix A.

n. “Section” shall mean a portion of this Order identified by a Roman numeral.

o. “Site” shall mean the Devil’s Swamp Lake Superfund Site, encompassing approximately \_\_\_ acres, located in East Baton Rouge Parish, Louisiana and depicted generally on the map attached as Appendix B.

p. “State” shall mean the State of Louisiana.

q. “Statement of Work” or “SOW” shall mean the Statement of Work for development of a RI/FS for the Site, as set forth in Appendix A to this Order. The Statement of Work is incorporated into this Order and is an enforceable part of this Order as are any modifications made thereto in accordance with this Order.

r. “Waste Material” shall mean (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

s. “Work” shall mean all activities Respondents are required to perform under this Order, except those required by Section XIV (Retention of Records).

## **V. FINDINGS OF FACT**

12. Devil’s Swamp Lake is a large flood plain area which consists of Devil’s Swamp, Devil’s Swamp Lake, Bayou Baton Rouge and surrounding properties near Scotlandville, East Baton Rouge Parish, Louisiana.

13. The Devil’s Swamp Lake Superfund Site is generally bordered by the northern portions of Bayou Baton Rouge to the north, U.S. Highway 61 - (scenic highway), the Ewell farm, Clean Harbors Baton Rouge, LLC [a.k.a. Safety Kleen, Inc., a.k.a. Laidlaw Environmental Services, Inc., a.k.a. Rollins Environmental Services (LA), Inc.], and the Baton Rouge barge harbor to the east, and the Mississippi River to the south and west. The Devil’s Swamp Superfund Site consists of contaminated sediments within Devil’s Swamp Lake, a portion of Devil’s Swamp adjoining the lake, and associated wetlands. The lake was excavated from Devil’s Swamp in 1973 and is surrounded by low-lying bottom lands that grade into the swamp toward the Mississippi river. The lake is subject to sheet flow from Bayou Baton Rouge through Devil’s Swamp, discharges and stormwater runoff from the former Rollins Environmental Services (LA), Inc. property, stormwater runoffs from the Baton Rouge Port Commission property and other nearby industrial properties. The lake is also subject to seasonal backwater flooding of the Mississippi River. The lake also received past discharges from the wastewater effluent of the former Rollins Environmental Services (LA), Inc. facility.

14. The Devil’s Swamp Lake Superfund Site specifically excludes any releases from the existing Petro Processors of Louisiana, Inc. (Petro) National Priorities List (NPL) site (LAD057482713) located in the Devil’s Lake watershed. The releases from the Petro site are being remediated pursuant to a Consent Decree (**Civil Action No. 80-358.B**) entered in the United States District Court for the Middle District of Louisiana on February 16, 1984.

15. Prior LDEQ investigations along the lake and the drainage ditch to the former Rollins Environmental Services (LA) Inc. outfall, conducted in 1985 and 1986, documented the presence of elevated levels of polychlorinated biphenyls (PCBs) within the drainage ditch and Devil's Swamp Lake sediments. Subsequent investigations were conducted in 1994 during joint LDEQ/EPA Expanded Site Inspections. These investigations confirmed the accumulation of PCBs within Devil's Swamp Lake sediments. Investigations conducted by the facility confirmed the presence of PCBs in the drainage ditch, now currently under remediation under RCRA corrective action authorities. The EPA and the United States Geological Survey (USGS) collected sediment samples from Devil's Swamp Lake as part of an "Immunoassay Screening of Sediment Cores for PCBs at Devil's Swamp Lake" in October 2004. This investigation reveals that PCBs have been deposited in the lake sediments since the mid 1970s. The EPA completed an "Aerial Photographic Analysis of Devil's Swamp Lake Site" in December 2004. The report covers a twenty year period from 1968 to 1988, and noted drainage pathways from the former Rollins Environmental Services (LA), Inc. site into the drainage ditch that eventually discharges into Devil's Swamp Lake. The report also identified culverts, breaches, stains, standing liquids, spillage, and other signs of runoff outside the facility.

16. Elements and compounds which are hazardous substances as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 C.F.R. § 302 were found at elevated levels at the Site. The 1999 report "Human Health Risk Assessment Devil's Swamp, Baton Rouge, Louisiana" revealed that PCBs have been found at levels of concern in sediments, fish, and crawfish in Devil's Swamp Lake and areas southward to the Mississippi River. The EPA's acceptable risk range for PCBs is exceeded in the Devil's Swamp Lake area, and these exceedences of Reasonable Maximum Exposure (RME) cancer risks are due almost exclusively to the presence of PCBs in edible fish and crawfish tissues. The RME non-cancer hazards also exceed the EPA's acceptable hazard goal of less than 1. Over the entire Devil's Swamp area, several chemicals of potential concern (COPCs) were identified using a risk-based screening concentration (RBSC) process which incorporated very conservative exposure and toxicity assumptions. These included chlorinated benzenes, PCBs, and a few pesticides. A distinct gradient indicates chlorinated benzenes are associated to the Petro site and have been addressed by that site. PCBs have been found in Devil's Swamp Lake (a separate and distinct area within Devil's Swamp), the Site under this Order. The few occurrences of pesticides are not related to any particular contamination gradient and are believed to be representative of anthropogenic background levels.

17. Exposure to elevated levels of the substances identified in Paragraph 16 above can result in acute and chronic toxicity to sediment-dwelling organisms. Furthermore, exposure of benthic organisms to these compounds in sediment can adversely affect their survival, growth, and reproduction. Toxicity tests for percent survival have been conducted on selected species of aquatic life. The survival rates indicate the presence of toxic sediments in Devil's Swamp Lake.

The PCBs that are released into aquatic ecosystems pose a number of potential risks to aquatic and terrestrial organisms. Although water-borne PCBs can be acutely lethal to invertebrates, fish, and amphibians, the primary concerns associated with PCBs are effects on survival, growth and reproduction from long-term exposures. Similarly, exposure to sediment-associated PCBs can adversely affect the survival, growth, and reproduction of benthic invertebrates and, potentially, benthic fish species. Accumulation of PCBs in the tissues of aquatic organisms can adversely affect the survival, growth, and reproduction of aquatic-dependent avian and mammalian wildlife species (i.e., those species that consume aquatic invertebrates and/or fish).

18. The Devil's Swamp Lake site was proposed on the National Priorities List on March 8, 2004 (69 FR 10646).

19. Clean Harbors Environmental Services, Inc, is the current owner of the former Rollins Environmental Services (LA), Inc. facility. Safety-Kleen Systems, Inc., is a former owner and operator of the former Rollins Environmental Services (LA), Inc. facility.

20a. On December 1, 2003, the EPA issued a General Notice Letter to Clean Harbors Environmental Services, Inc., current owners, notifying them of the potential liability that they have incurred or may have incurred with respect to the Site. On August 17, 2004, the EPA issued a General Notice Letter to Safety-Kleen Systems, Inc., former owner and operator, notifying them of potential liability that they have incurred or may have incurred with respect to the Site.

20b. On April 26, 2005, the EPA issued a Special Notice Letter to Clean Harbors Environmental Services, Inc., current owners, current owners, and Safety-Kleen Systems, Inc., former owner and operator, inviting them to participate in formal negotiations in an effort to reach a settlement to conduct or finance the RI/FS.

## **VI. CONCLUSIONS OF LAW AND DETERMINATIONS**

Based on the Findings of Fact set forth above, EPA has determined that:

21. The Devil's Swamp Lake Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

22. The contamination found at the Site, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), or constitute "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare under section 104(a)(1) of CERCLA.

23. The presence of hazardous substances at the Site or the past, present or potential migration of hazardous substances currently located at or emanating from the Site, constitute actual and/or threatened "releases" as defined in section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

24. Each Respondent is a "person" as defined in section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

25. Respondents are responsible parties under sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622.

26. The actions required by this Order are necessary to protect the public health or welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

27. EPA has determined that Respondents are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondents comply with the terms of this Order.

## **VII. ORDER**

28. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Order, including, but not limited to, all appendices to this Order and all documents incorporated by reference into this Order.

## **VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS**

29. Selection of Contractors, Personnel. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Order, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-

01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) to meet the quality system requirements. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Order is contingent on Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in this Order. If EPA disapproves in writing of any person's technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacements within 30 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

30. On or before the Effective Date, Respondents shall designate a Project Coordinator who shall be responsible for administration of all actions by Respondents required by this Order and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 10 days following EPA's disapproval. Respondents shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. Respondents shall notify EPA 10 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents. Documents to be submitted to the Respondents shall be sent to [insert name, title, organization and address of Respondents' Project Coordinator].

31. EPA has designated Bartolome J. Cañellas of the Superfund Division, EPA Region 6, as its Project Coordinator. EPA will notify Respondents of a change of its designated Project Coordinator. Except as otherwise provided in this Order, Respondents shall direct all submissions required by this Order to the Project Coordinator at U.S. EPA Region 6, Superfund Division (6SF-LP), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202, by certified mail, return receipt requested.

32. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, EPA's

Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Order, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Order shall not be cause for the stoppage or delay of Work.

33. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FS Work Plan.

## **IX. WORK TO BE PERFORMED**

34. Respondents shall conduct the Work in accordance with the provisions of this Order, the SOW, CERCLA, the NCP, and EPA guidance including, but not limited to, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988, or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the Statement of Work, as may be amended or modified by EPA. The Remedial Investigation ("RI") shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study ("FS") shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Order.

35. The tasks that Respondents must perform are described more fully in the Statement of Work and guidances. The activities and deliverables identified in the SOW shall be submitted to EPA as provided in the SOW. All work performed under this Order shall be in accordance with the schedules herein or established in the SOW, and in full accordance with the standards, specifications, and other requirements of the work plan and sampling and analysis plan, as



initially approved or modified by EPA, and as may be amended or modified by EPA from time to time.

36. In accordance with the schedules established in this Order or in the SOW, Respondents shall submit to EPA and the State \_\_\_\_\_ copies of all plans, reports, submittals and other deliverables required under this Order, the SOW and the RI/FS Work Plan. All plans, reports, submittals and other deliverables will be reviewed by EPA pursuant to Section X (EPA Approval of Plans and Other Submissions). Upon request by EPA, Respondents shall submit in electronic form all portions of any report or other deliverable Respondents are required to submit pursuant to provisions of this Order.

37. Upon receipt of the draft FS report, EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability and effectiveness of any proposed Institutional Controls.

38. Modification of the RI/FS Work Plan.

a. If at any time during the RI/FS process, Respondents identify a need for additional data, Respondents shall submit a memorandum documenting the need for additional data to the EPA Project Coordinator within 20 days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into reports and other deliverables.

b. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In addition to the authorities in the NCP, in the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, EPA shall modify or amend the RI/FS Work Plan in writing accordingly. Respondents shall perform the RI/FS Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. Respondents agree to perform these response actions in addition to those required by the initially approved RI/FS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS.

d. Respondents shall confirm their willingness to perform the additional Work in writing to EPA within 7 days of receipt of the EPA request. If Respondents object to any modification determined by EPA to be necessary pursuant to this Paragraph, Respondents may

seek dispute resolution pursuant to Section XVI (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. Respondents shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI/FS Work Plan or written RI/FS Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondents, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions at the Site.

39. Off-Site Shipment of Waste Material. Respondents shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Respondents shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondents shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondents following the award of the contract for the remedial investigation and feasibility study. Respondents shall provide the information required by Subparagraph 39.a and 39.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondents shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

40. Meetings. Respondents shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

41. Progress Reports. In addition to the plans, reports, and other deliverables set forth in this Order, Respondents shall provide to EPA monthly progress reports by the 10th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Order during that month, (2) include all results of sampling and tests and all other data received by Respondents, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

42. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action. Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the EPA Project Coordinator or, in the event of his/her unavailability, the On Scene Coordinator ("OSC") or the Regional Duty Officer of the incident or Site conditions. The Regional Duty Officer's (Emergency Planning and Response Branch, EPA Region 6) telephone number is 214-665-6428. The EPA Regional Emergency 24-hour telephone number is 866-372-7745. In the event that Respondents fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondents shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XIX (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Site, Respondents shall immediately notify the EPA Project Coordinator, the OSC or Regional Duty Officer at 866-372-7745 and the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

## **X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS**

43. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Order, EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondents modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondents at least one notice of deficiency and an opportunity to cure within 10 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects. At EPA's discretion, Respondents shall fully correct all deficiencies identified by EPA and incorporate and integrate all information and comments supplied by EPA either in subsequent or resubmitted deliverables.

44. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 43(a), (b), (c) or (e), Respondents shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XVI (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submittal or portion thereof, Respondents shall not thereafter alter or amend such submittal or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 43(c) and the original submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVII (Stipulated Penalties).

### **45. Resubmission of Plans.**

a. Upon receipt of a notice of disapproval, Respondents shall, within 10 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval.

b. Notwithstanding the receipt of a notice of disapproval, Respondents shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondents of any liability for stipulated penalties under Section XVII (Stipulated Penalties).

c. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval for the following deliverables: RI/FS Work Plan and Sampling and Analysis Plan, Baseline Human Health Risk Assessment, Baseline Ecological Risk

Assessment Report, Draft Remedial Investigation Report, Treatability Testing Work Plan and Sampling and Analysis Plan, and Draft Feasibility Study Report. While awaiting EPA approval on these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth in this Order.

d. For all remaining deliverables not enumerated above in subparagraph 45c., Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

46. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondents to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondents shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XVI (Dispute Resolution).

47. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA, Respondents shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondents invoke the dispute resolution procedures in accordance with Section XVI (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superceded by an agreement reached pursuant to that Section. The provisions of Section XVI (Dispute Resolution) and Section XVII (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified or superceded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XVI, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVII.

48. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondents shall incorporate and integrate information supplied by EPA into the final reports.

49. All plans, reports, and other deliverables submitted to EPA under this Order shall, upon approval or modification by EPA, be incorporated into and enforceable under this Order. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Order, the approved or modified portion shall be incorporated into and enforceable under this Order.

50. Neither failure of EPA to expressly approve or disapprove of Respondents' submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondents' deliverables, Respondents are responsible for preparing deliverables acceptable to EPA.

## **XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION**

51. Quality Assurance. Respondents shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW, the QAPP and guidances identified therein. Respondents will assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures. Respondents shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

### **52. Sampling.**

a. All results of sampling, tests, modeling or other data (including raw data) generated by Respondents, or on Respondents' behalf, during the period that this Order is effective, shall be submitted to EPA in the next monthly progress report as described in Paragraph 41 of this Order. EPA will make available to Respondents validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Respondents shall verbally notify EPA at least 15 days prior to conducting significant field events as described in the SOW, RI/FS Work Plan or Sampling and Analysis Plan. At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondents shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) of any samples collected in implementing this Order. All split samples of Respondents shall be analyzed by the methods identified in the QAPP.

### **53. Access to Information.**

a. Respondents shall provide to EPA, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. Respondents may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Order to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to EPA, or if EPA has notified Respondents that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondents. Respondents shall segregate and clearly identify all documents or information submitted under this Order for which Respondents assert business confidentiality claims.

c. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Respondents assert such a privilege in lieu of providing documents, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

54. In entering into this Order, Respondents waive any objections to any data gathered, generated, or evaluated by EPA, the State or Respondents in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (“QA/QC”) procedures required by the Order or any EPA-approved RI/FS Work Plans or Sampling and Analysis Plans. If Respondents object to any other data relating to the RI/FS, Respondents shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days of the monthly progress report containing the data.

## **XII. SITE ACCESS AND INSTITUTIONAL CONTROLS**

55. If the Site, or any other property where access is needed to implement this Order, is owned or controlled by any of Respondents, such Respondents shall, commencing on the Effective Date, provide EPA and its representatives, including contractors, with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Order.

56. Where any action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within 30 days after the Effective Date, or as otherwise specified in writing by the EPA Project Coordinator. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. For purposes of this Paragraph, “best efforts” includes the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain access. If Respondents cannot obtain access agreements, EPA may either (i) obtain access for Respondents or assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the Order. Respondents shall reimburse EPA for all costs and attorney’s fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XIX (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Order, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such activities. Respondents shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables.

57. Notwithstanding any provision of this Order, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

### **XIII. COMPLIANCE WITH OTHER LAWS**

58. Respondents shall comply with all applicable local, state and federal laws when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Order is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

### **XIV. RETENTION OF RECORDS**



59. During the pendency of this Order and for a minimum of 10 years after commencement of construction of any remedial action, each Respondent shall preserve and retain all non-identical copies of records and documents (including records or documents in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until 10 years after commencement of construction of any remedial action, Respondents shall also instruct their contractors and agents to preserve all documents, records, and information of whatever kind, nature or description relating to performance of the Work.

60. At the conclusion of this document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA, Respondents shall deliver any such records or documents to EPA. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Order shall be withheld on the grounds that they are privileged.

61. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

#### **XV. NATURAL RESOURCE DAMAGES**

62. For the purposes of Section 113(g)(1) of CERCLA, the parties agree that, upon issuance of this Order for performance of an RI/FS at the Site, remedial action under CERCLA shall be deemed to be scheduled and an action for damages (as defined in 42 U.S.C. § 9601(6)) must be commenced within 3 years after the completion of the remedial action.

#### **XVI. DISPUTE RESOLUTION**

63. Unless otherwise expressly provided for in this Order, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Order. The Parties shall attempt to resolve any disagreements concerning this Order expeditiously and informally.

64. If Respondents object to any EPA action taken pursuant to this Order, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within 14 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondents shall have 14 days from EPA's receipt of Respondents' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted verbally but must be confirmed in writing.

65. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Order. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Branch Chief level or higher will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Order. Respondents' obligations under this Order shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondents agree with the decision.

## **XVII. STIPULATED PENALTIES**

66. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 67, 68, 69, 70, and 71 for failure to comply with any of the requirements of this Order specified below unless excused under Section XVIII (Force Majeure). "Compliance" by Respondents shall include completion of the Work under this Order or any activities contemplated under any RI/FS Work Plan or other plan approved under this Order identified below, in accordance with all applicable requirements of law, this Order, the SOW, and any plans or other documents approved by EPA pursuant to this Order and within the specified time schedules established by and approved under this Order.

67. For each day that the Respondents fail to complete a deliverable in a timely manner or fail to produce a deliverable of acceptable quality, Respondents shall be liable for stipulated penalties below. Where a revised submission by Respondents is required, stipulated penalties shall continue to accrue until a satisfactory deliverable is produced.

a.. For the following major deliverables, stipulated penalties shall accrue in the amount of \$2,000 per day, per violation, for the first seven days of noncompliance; \$4,000 per day, per violation, for the 8th through 14th day of noncompliance; \$6,000 per day, per violation, for the 15th day through the 30th day; and \$10,000 per day per violation for all violations lasting beyond 30 days.

- (1) Draft and final Preliminary Site Characterization Report.
- (2) Draft and final RI/FS Work Plan.
- (3) Draft and final Baseline Human Health Risk Assessment.
- (4) Draft and final Baseline Ecological Risk Assessment Report.
- (5) Draft and final Remedial Investigation Report.
- (6) Draft and final Feasibility Study Report.

b. For the following interim deliverables, stipulated penalties shall accrue in the amount of \$1,500 per day, per violation, for the first week of noncompliance; \$3,000 per day, per violation, for the 8th through 14th day of noncompliance; \$5,000 per day, per violation, for the 15th day through the 30th day of noncompliance; and \$9,000 per day per violation for all violations lasting beyond 30 days.

- (1) Draft and final Baseline Ecological Risk Assessment Problem Formulation Report.
- (2) Draft and final Baseline Ecological Risk Assessment Work Plan and Sampling and Analysis Plan.
- (3) Treatability Studies Work Plan, Sampling and Analysis Plan, and Health and Safety Plan (if required).
- (4) Technical Memorandum on Development and Preliminary Screening of Remedial Alternatives.

68. For the monthly progress reports, stipulated penalties shall accrue in the amount of \$1,200 per day, per violation, for the first week of noncompliance; \$2,500 per day, per violation, for the 8th through 14th day of noncompliance; \$5,000 per day, per violation, for the 15th day through the 30th day; and \$8,000 per day, per violation, for all violations lasting beyond 30 days.

69. For each failure to cease activity when the EPA Project Coordinator or EPA designated site representative orders either an oral or written cessation or halt of activities pursuant to Paragraph 32 of this Order, the Respondents shall pay a stipulated penalty of \$27,500 per day.

70. If EPA exercises its right to undertake the RI/FS pursuant to paragraph 88 of this Order, Respondents shall pay a lump sum penalty of \$500,000.

71. For any violation of this Order, with the exceptions listed in paragraphs 67, 68, 69, and 70 above, stipulated penalties shall accrue from the date of violation until the violation is corrected in the amount of \$1,000 per day, per violation for the first week of noncompliance; \$2,500 per day, per violation, for the 8th through 14th day of noncompliance; and \$5,000 per day, per violation for the 15th day and beyond of noncompliance.

72. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31<sup>st</sup> day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 66 of Section XVI (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

73. Following EPA's determination that Respondents have failed to comply with a requirement of this Order, EPA may give Respondents written notification of the same and describe the noncompliance. EPA may send Respondents a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

74. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the dispute resolution procedures in accordance with Section XVI (Dispute Resolution). All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substances Superfund". Respondents shall make all payments by forwarding the check to:

Mellon Bank  
U.S. EPA Cincinnati Accounting

Operations - Region 6  
P.O. Box 371099M  
Pittsburgh, PA 15251

Respondents shall indicate that the payment is for stipulated penalties and shall reference EPA Region 6 and Site/Spill ID Number “06N1”, the EPA Docket Number **CERCLA** \_\_\_\_\_, and the name and address of the parties making payment. Copies of the check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to EPA as follows:

**Team Leader, Enforcement Assessment, (6SF-TE)**  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, TX 75202-2733

75. The payment of penalties shall not alter in any way Respondents’ obligation to complete performance of the Work required under this Order.

76. Penalties shall continue to accrue as provided in Paragraph 72 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA’s decision.

77. If Respondents fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondents shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 74.

78. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents’ violation of this Order or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Order or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XXII (Reservation of Rights by EPA), Paragraph 88. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Order.

## **XVIII. FORCE MAJEURE**

79. Respondents agree to perform all requirements of this Order within the time limits established under this Order, unless the performance is delayed by a *force majeure*. For purposes of this Order, *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Order despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

80. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a *force majeure* event, Respondents shall notify EPA orally within 48 hours of when Respondents first knew that the event might cause a delay. Within five business days thereafter, Respondents shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

81. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Order that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

## **XIX. PAYMENT OF RESPONSE COSTS**

### **82. Payments for Future Response Costs**

a. Respondents shall pay to EPA all Future Response Costs not inconsistent with the NCP. The total estimated Future Response Costs is \$—. Based on this estimate, within thirty days of the effective date of this Order, Respondents shall forward \$100,000.00 to be deposited

in the Devil's Swamp Lake Special Account within the Superfund, to be retained and used to conduct or finance response actions at or in connection with the Site.

b. On an annual basis the United States will send Respondents a bill requiring payment that includes an EPA Integrated Financial Management System ("IFMS") Itemized Cost Summary (SCORPIOS Report or its equivalent). Respondents shall make all payments within 30 days of Respondents' receipt of each bill. Payment shall be made to EPA by Electronic Funds Transfer ("ETF") in accordance with current ETF instructions to be provided to Respondents by EPA Region 6, and shall be accompanied by a statement identifying the name and address of the party(ies) making payment, the Site name, the EPA Region, and Site/Spill ID Number 06N1, and the EPA docket number for this action.

c. Respondents shall submit notice of payment including a copy of the EFT transmittal documentation to the EPA RPM and to:

Team Leader, Enforcement Assessment, (6SF-TE)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

d. Whenever the Devil's Swamp Lake Special Account is drawn down to a balance of approximately \$50,000, EPA will send notice to the Respondents and will provide an adjusted estimate of Future Response Costs to be expended annually. The Respondents shall, within twenty (20) days of a notice and the SCORPIOS Report or its equivalent, remit to the Devil's Swamp Lake Special Account (by EFT) the amount EPA identifies as necessary to replenish the Devil's Swamp Lake Special Account to a balance of \$100,000.00. If the Devil's Swamp Lake Special Account is depleted to an amount of \$10,000.00 or less at the time EPA submits a notification and SCORPIOS Report to the Respondents, the Respondents shall pay, within ten days of EPA's notice, \$40,000.00 to the Devil's Swamp Lake Special Account. Prior to close out of this Order, the EPA will send a final bill under this Order. The Respondent shall make such payments according to the procedures described in this Paragraph.

e. Respondents may dispute all or part of a bill for Future Response Costs submitted under this Order, if Respondents allege that EPA has made an accounting error, or if Respondents allege that a cost item is inconsistent with the NCP. Respondents shall identify any contested costs and the basis of its objection. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondents shall pay the full amount of the uncontested costs to EPA as specified in this Paragraph on or before the due date. Within the same period, Respondents shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondents shall simultaneously transmit a copy of both checks to the persons listed in this Paragraph above.

Respondents shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 30 days after the dispute is resolved. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

f. Neither dispute resolution nor a request to EPA for more detailed information nor a request for a certified cost accounting shall delay the date that the Respondents' payments are due under this paragraph.

83. In the event that the payment of the amount specified in Paragraph 82 is not made within 30 days of the Effective Date of this Order, or the payments for Future Response Costs are not made within 30 days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue on the Effective Date of this Order and shall continue to accrue on the date of the bill and shall continue to accrue until the date of payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XVII.

## **XX. REIMBURSEMENT OF PAST COSTS**

84. EPA agrees not to seek past response costs in this Consent Order. However, EPA reserves the right to seek recovery of past response costs for which PRPs are responsible under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a). From date of inception through February 28, 2005, the EPA has incurred \$3,895,658.68 in costs at the Site. Such past response costs include all costs, including, but not limited to, direct and indirect costs, that the United States, including, but not limited to, its employees, agents, contractors, consultants, and other authorized representatives, incurred regarding the Site that are not covered as Future Response Costs, as defined in this Consent Order.

## **XXI. COVENANT NOT TO SUE BY EPA**

85. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Order, and except as otherwise specifically provided in this Order, EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work performed under this Order and for recovery of Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Order,



including, but not limited to, payment of Future Response Costs pursuant to Section XIX. This covenant not to sue extends only to Respondents and does not extend to any other person.

## **XXII. RESERVATIONS OF RIGHTS BY EPA**

86. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

87. The covenant not to sue set forth in Section XXI above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Order is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. claims based on a failure by Respondents to meet a requirement of this Order;
- b. liability for costs not included within the definition of Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

88. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondents may invoke the procedures set forth in Section XVI (Dispute Resolution) to dispute EPA's determination that takeover of

the Work is warranted under this Paragraph. Costs incurred by EPA in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondents shall pay pursuant to Section XIX (Payment of Response Costs). Notwithstanding any other provision of this Order, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

### **XXIII. COVENANT NOT TO SUE BY RESPONDENTS**

89. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Order, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which the Future Response Costs have or will be incurred, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Future Response Costs.

90. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 87 (b), (c), and (e) - (g), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

91. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

92. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Respondents with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April

1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

93. The waiver in Paragraph 92 shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Respondent. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act or “RCRA”), 42 U.S.C. § 6972, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

#### **XXIV. OTHER CLAIMS**

94. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents.

95. Except as expressly provided in Section XXIII, Paragraphs 92 and 93 (Non-Exempt De Micromis Waivers) and Section XXI (Covenant Not to Sue by EPA), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

96. No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

#### **XXV. CONTRIBUTION PROTECTION**

97. The Parties agree that Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for “matters addressed” in this Order. The “matters addressed” in this Order are the Work and Future Response Costs. Except as expressly provided in in Section XXIII, Paragraphs 92 and 93 (Non-Exempt De Micromis Waivers), nothing in this Order precludes the United States or Respondents from asserting any claims, causes of action, or demands against any person not parties to this Order for indemnification, contribution, or cost recovery.

## **XXVI. INDEMNIFICATION**

98. Respondents shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Order. In addition, Respondents agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Order. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondents in carrying out activities pursuant to this Order. Neither Respondents nor any such contractor shall be considered an agent of the United States.

99. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

100. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the Site.

## **XXVII. INSURANCE**

101. Prior to commencing any On-Site Work under this Order, Respondents shall secure, and shall maintain for the duration of this Order, comprehensive general liability insurance and automobile insurance with limits of \$5 million dollars, combined single limit, naming the EPA as an additional insured. Within the same period, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Order, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Order. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

## **XXVIII. FINANCIAL ASSURANCE**

102. Within 30 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA, in the amount sufficient to perform the Work and any other obligations under this Order, in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
- e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Respondents, or by one or more unrelated corporations that have a substantial business relationship with at least one of Respondents; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

f. a corporate guarantee to perform the Work by one or more of Respondents, including a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

103. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 102, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Order.

104. If Respondents seek to ensure completion of the Work through a guarantee pursuant to Subparagraph 102.e. or 102.f. of this Order, Respondents shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the Effective Date, to EPA. For the purposes of this Order, wherever 40 C.F.R. Part 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate of \$ \_\_\_\_\_ for the Work at the Site shall be used in relevant financial test calculations.

105. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 102 of this Section, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Respondents may seek dispute resolution pursuant to Section XVI (Dispute Resolution). Respondents may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

106. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event

of a dispute, Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

## **XXIX. INTEGRATION/APPENDICES**

107. This Order and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Order and become incorporated into and enforceable under this Order constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Order. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Order. The following appendix is attached to and incorporated into this Order:

“Appendix A” is the SOW and list of Respondents.

“Appendix B” is the Map of the Site.

## **XXX. ADMINISTRATIVE RECORD**

108. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of EPA, Respondents shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of EPA, Respondents shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondents and state, local or other federal authorities concerning selection of the response action. At EPA’s discretion, Respondents shall establish a community information repository at or near the Site, to house one copy of the administrative record. EPA retains the responsibility for the release to the public of the RI/FS report. EPA retains responsibility for the preparation and release to the public of the proposed plan and record of decision in accordance with CERCLA and the NCP.

## **XXXI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION**

109. The effective date of this Order shall be the date it is signed by EPA.

110. This Order may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Order.

111. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Order, or to comply with all requirements of this Order, unless it is formally modified.

## **XXXII. NOTICE OF COMPLETION OF WORK**

112. When EPA determines that all Work has been fully performed in accordance with this Order, with the exception of any continuing obligations required by this Order, including but not limited to record retention, EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Order, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the RI/FS Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 38 (Modification of the Work Plan). Failure by Respondents to implement the approved modified RI/FS Work Plan shall be a violation of this Order.

Agreed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

For Respondent \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_



It is so ORDERED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Samuel Coleman, P.E.  
Director  
Superfund Division

BY: \_\_\_\_\_ DATE: \_\_\_\_\_ (Respondents)  
Title

DRAFT

## Appendix A

### **DRAFT STATEMENT OF WORK FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS), AND LIST OF RESPONDENTS DEVIL'S SWAMP LAKE**

#### **LIST OF DELIVERABLES AND SCHEDULE**

DELIVERABLES/MEETINGS	SCHEDULE
1. Preliminary Site Characterization (Scoping Document) Report Includes: Evaluation of Existing Information Preliminary Conceptual Site Model Identification of Potential Technologies Identification of RI/FS Data Needs Preliminary List of ARARS and TBCs	Draft report is due 60 days following EPA approval of AOC and SOW. The final report is due within 30 days after receipt of EPA comments.
2. Draft and Final RI/FS Work Plan Includes: - Project Management Plan - Data Management Plan - Sampling and Analysis Plan (Contains Field Sampling Plan and Quality Assurance/Quality Control Plan) - Health and Safety Plan	Draft RI/FS Work Plan due 90 days after EPA approval of the Preliminary Site Characterization Report. The final report is due within 30 days after receipt of EPA comments.
3. Remedial Investigation	As specified in the Final RI/FS Work Plan
4. Draft and Final Baseline Human Health Risk Assessment	Draft due as specified in the Final RI/FS Work Plan. The final report is due within 30 days after receipt of EPA comments. .
5. Draft, and Final Screening Level Ecological Risk Assessment Report	Draft due as specified in the Final RI/FS Work Plan. The final report is due within 30 days after receipt of EPA comments.
6. Draft, and Final Baseline Ecological Risk Assessment Problem Formulation Report	Draft due as specified in the Final RI/FS Work Plan. The final report is due within 30 days after receipt of EPA comments.
7. Draft and Final Baseline Ecological	Draft due as specified in the Final RI/FS Work

DELIVERABLES/MEETINGS	SCHEDULE
Risk Assessment Work Plan and Sampling and Analysis Plan	Plan. The final report is due within 30 days after receipt of EPA comments. .
8. Draft, and Final Baseline Ecological Risk Assessment Report	Draft due as specified in the Final RI/FS Work Plan. The final report is due within 30 days after receipt of EPA comments.
9. Analytical Data Summary	Submitted as needed, for any additional data not included in the standard reports or not included in Monthly Progress Reports.
10.Draft and Final Remedial Investigation Report	Draft due as specified in the Final RI/FS Work Plan. The final report is due within 30 days after receipt of EPA comments.
11. Draft and Final Feasibility Study Report	Draft due as specified in the Final RI/FS Work Plan. The final report is due within 30 days after receipt of EPA comments.
12. Monthly Progress Reports	Initially due as specified in the RI/FS Work Plan. Thereafter, due by the tenth day of the following month

## REFERENCES

The following list, although not comprehensive, contains many of the regulations and guidance documents that apply to the RI/FS process:

1. National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300
2. "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," U.S. EPA, Office of Emergency and Remedial Response, October 1988, OSWER Directive No. 9355.3-01.
3. "Interim Guidance on Potentially Responsible Party Participation in Remedial Investigation and Feasibility Studies," U.S. EPA, Office of Waste Programs Enforcement, Appendix A to OSWER Directive No. 9355.3-01.
4. "Guidance on Oversight of Potentially Responsible Party Remedial Investigations and Feasibility Studies," U.S. EPA, Office of Waste Programs Enforcement, OSWER Directive No. 9835.3.
5. "Guide to Preparing Superfund Proposed Plans, Records of Decision, and Other Remedy Selection Decision Documents," U.S. EPA, Office of Solid Waste and Emergency Response, EPA 540-R-98-031, July 1999, OSWER Directive No. 9200.1-23P.
6. "A Compendium of Superfund Field Operations Methods," Two Volumes, U.S. EPA, Office of Emergency and Remedial Response, EPA/540/P-87/001a, August 1987, OSWER Directive No. 9355.0-14.
7. "EPA NEIC Policies and Procedures Manual," May 1978, revised November 1984, EPA-330/9-78-001-R.
8. "Interim Guidance on Compliance with Applicable or Relevant and Appropriate Requirements," U.S. EPA, Office of Emergency and Remedial Response, July 9, 1987, OSWER Directive No. 9234.0-05.
9. "CERCLA Compliance with Other Laws Manual," Two Volumes, U.S. EPA, Office of Emergency and Remedial Response, August 1988 (draft), OSWER Directive No. 9234.1-01 and -02.
10. "Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites," U.S. EPA, Office of Emergency and Remedial Response, (draft), OSWER Directive No. 9283.1-2.
11. "Draft Guidance on Preparing Superfund Decision Documents," U.S. EPA, Office of Emergency and Remedial Response, March 1988, OSWER Directive No. 9355.3-02
12. "Performance of Risk Assessments in Remedial Investigation/Feasibility Studies

(RI/FSS) Conducted by Potentially Responsible Parties (PRPs),” August 28, 1990, OSWER Directive No. 9835.15.

13. “Role of the Baseline Risk Assessment in Superfund Remedy Selection Decisions,” April 22, 1991, OSWER Directive No. 9355.0-30.

14. OSHA Regulations at 29 C.F.R. 1910.120

15. “Final Guidance on Administrative Records for Selecting CERCLA Response Actions,” U.S. EPA, Office of Waste Programs Enforcement, December 3, 1990, OSWER Directive No. 9833.3A.

16. “Community Relations in Superfund: A Handbook,” U.S. EPA, Office of Emergency and Remedial Response, June 1988, OSWER Directive No. 9230.0#3B.

17. “Community Relations During Enforcement Activities And Development of the Administrative Record,” U.S. EPA, Office of Programs Enforcement, November 1988, OSWER Directive No. 9836.0-1A.

18. EPA 1997. “Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments.” Office of Emergency and Remedial Response. EPA/540-R-97-006. June 5, 1997.

19. U.S. Environmental Protection Agency (EPA) 1987a. “Data Quality Objectives for Remedial Response Activities.” Office of Emergency and Remedial Response and Office of Waste Programs Enforcement. EPA/540/G-87/003. OSWER Directive No. 9335.0-7b. March 1987.

20. EPA 1991a. “Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors.” Office of Emergency and Remedial Response. OSWER Directive No. 9235.6-03. March 1991.

21. “Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part A),” December 1989, EPA/540/1-89/002.

22. EPA 1991b. “Risk Assessment Guidance for Superfund: Volume I, Human Health Evaluation Manual (Part B), Development of Risk-Based Preliminary Remediating Goals.” Office of Emergency and Remedial Response. OSWER Directive No. 9285.7-01B. December 1991.

23. EPA 1991c. “Risk Assessment Guidance for Superfund: Volume I, Human Health Evaluation Manual (Part C), Risk Evaluation of Remedial Alternatives.” Office of Emergency and Remedial Response. OSWER Directive No. 9285.7-01C. 1991.

24. EPA 1992a. “Guidance for Data Useability in Risk Assessment.” Office of Emergency and Remedial Response. OSWER Directive No. 9285.7-09A. April 1992 (and Memorandum from Henry L. Longest dated June 2, 1992).

25. "Risk Assessment Guidance for Superfund. Volume I: Human Health Evaluation Manual. Supplemental Guidance. Dermal Risk Assessment." Interim Guidance, 1998.
26. "Risk Assessment Guidance for Superfund - Volume II Environmental Evaluation Manual," March 1989, EPA/540/1-89/001.
27. EPA 1992b. "Supplemental Guidance to RAGS: Calculating the Concentration Term." Office of Emergency and Remedial Response. OSWER Directive No. 9285.7-081. May 1992.
28. EPA 1993a. "Data Quality Objectives Process for Superfund." Office of Solid Waste and Emergency Response. EPA/540-R-93-071. September 1993.
29. EPA 1998a. "Risk Assessment Guidance for Superfund, Volume 1 - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments). Interim. Process for Designing and Conducting Ecological Risk Assessments." Office of Solid Waste and Emergency Response. EPA/540-R-97-033. January 1998.
30. EPA 1998b. "EPA Guidance for Quality Assurance Project Plans." Office of Research and Development. EPA QA/G-5. EPA/600/R-98/018. February 1998.
31. EPA 2001. "EPA Requirements for Quality Assurance Project Plans." Office of Environmental Information. EPA QA/R-5. EPA/240/B-01/003. March 2001.
32. "Health and Safety Requirements of Employees Employed in Field Activities," U.S. EPA, Office of Emergency Response, July 13, 1981, EPA Order No. 1440.2.
33. "Exposure Factors Handbook", EPA, 1997.
34. Integrated Risk Information System (IRIS), 2000.
35. "Health Effects Assessment Summary Tables (HEAST), "U.S. EPA, Office of Solid Waste and Emergency Response, 1997, EPA/540/R-95/036.
36. "Guidance for Conducting Non-Time-Critical Removal Actions Under CERCLA", U.S. EPA, Office of Emergency and Remedial Response, August 1993, OSWER Directive No. 9360.0-32.

RESPONDENTS				
CURRENT NAME	STREET ADDRESS	CITY	STATE	ZIP
Clean Harbors Baton Rouge, LLC	200 Arbor Lake Drive, Suite 300	Columbia	SC	29223
Safety-Kleen Systems, Inc.	5400 Legacy Drive, Cluster II, Building 3	Plano	TX	75024
Honeywell	5525 Highway 3115	Carville	LA	70721
Dow Chemical	21255 LA HWY 1	Plaquemine	LA	70764
Ethyl Corporation	330 S. Fourth St	Richmond	VA	23219
Minnesota Power	30 West Superior Street	Duluth	MN	55802
PolyMet Mining C	6500 County Road 666	Hoyt Lakes	MN	55705
Commonwealth Edison Co.	10 S Dearborn, 37th Floor	Chicago	IL	60603
Orlando Utilities Commission	500 S Orange Ave	Orlando	FL	32801
The Mosaic Company	3033 Campus Dr, Suite E490	Plymouth	MN	55441
ExxonMobil Chemical	13501 Katy Freeway	Houston	TX	77079-1398
International Paper Company	6400 Poplar Avenue	Memphis	TN	38197
Fru-Con Construction Corp	15933 Clayton Rd	Ballwin	MO	63011
General Electric Company	3135 Easton Turnpike	Fairfield	CT	06828
Metso Minerals	20965 Crossroads Cir	Waukesha	WI	53186
General Motors Corporation	300 Renaissance Ave	Detroit	MI	48265
CLECO Power LLC	2030 Donahue Ferry Rd	Pineville	LA	71360-5226
Arkema	2000 Market Street	Philadelphia	PA	19103-3222
Owens-Illinois	One Seagate, 5th Flr	Toledo	OH	43666
Bryant Electric Co.	215 Balfour Drive	High Point	NC	27263
Johnson City Power Board	2600 Boones Creek Rd.	Johnson City	TN	37615



RESPONDENTS				
CURRENT NAME	STREET ADDRESS	CITY	STATE	ZIP
Georgia Pacific	133 Peachtree Street N.E.	Atlanta	GA	30303
Georgia Power	241 Ralph McGill Boulevard	Atlanta	GA	30308
Southwire Company	One Southwire Dr.	Carrollton	GA	30119
Entergy New Orleans, Inc	639 Loyola Avenue	New Orleans	LA	70113
Graphic Packaging International, Inc	814 Livingston Court	Marietta	GA	30067
Great Southern Paper Co	133 Peachtree Street NE	Atlanta	GA	30303
The Sullivan Corporation	460 Cardinal Lane	Hartland	WI	53029
Pratt & Whitney Space Propulsion	17000 Bee Line Hwy.	Jupiter	FL	33478
Shell Chemical	7594 Highway 75	Geismar	LA	70734
Smurfit- Stone Container	150 N. Michigan Ave	Chicago	IL	60601
Durango Paper Company Inc, dba Durango-Georgia	1000 Osborn St	St. Mary's	GA	31558
Eastman Chemical Co.	1 Eastman Rd	Kingsport	TN	37662
Texas Eastern Transmission, LP	5400 Westheimer Ct	Houston	TX	77056
Chevron Corporation	6001 Bollinger Canyon Rd	San Ramon	CA	94583
Union Carbide	400 W Sam Houston Pkwy, S.	Houston	TX	77042
USX Corporation	5700 Valley Rd	Fairfield	AL	35064
Alcatel-Lucent	600 Mountain Ave. Att: Environmental Health	Murray Hill,	NJ	07974
CBS Corporation	1515 Broadway	New York	NY	10036
Cos-Mar Company	Hwy 75 River Road	Carville	LA	70721
Winn-Dixie Stores, Inc.	5050 Edgewood Court	Jacksonville	FL	32254
W.R. Grace & Company	7500 Grace Drive	Columbia	MD	21044

RESPONDENTS				
CURRENT NAME	STREET ADDRESS	CITY	STATE	ZIP
Wyeth	Five Giralda Farms	Madison	NJ	07940-0874
BASF	100 Campus Dr	Florham Park	NJ	07932
American Sugar Refining, Inc.	One Federal Street	Yonkers	NY	10702
Bechtel Inc.	50 Beale St	San Francisco	CA	94105
Goodrich Corp	Four Coliseum Centre, 2730 West Tyvola Rd	Charlotte	NC	28217-4578
Bliss Waste Oil Co.	149 Strecker Rd	Ellisville	MO	63011
Buckeye Technologies, Inc.	1001 Tillman	Memphis	TN	38112
CLECO	2030 Donahue Ferry Rd	Pineville	LA	71360-5226
Kuhlman Electric	101 Kuhlman Blvd	Versailles	KY	40383
CF Industries Holdings, Inc.	1 Salem Lake Drive	Long Grove	IL	60047
PDV American, Inc	One Warren Place	Tulsa	OK	74136
Entergy Mississippi, Inc	308 E. Pearl St	Jackson	MS	39201
Monsanto Company	800 N. Lindbergh Blvd	St. Louis	MO	63167
Ensco, Inc	5400 Port Royal Road	Springfield	VA	22151
Chevron Corporation	6001 Bollinger Canyon Rd	San Ramon	CA	94583
Entergy Gulf States, Inc	350 Pine Street	Beaumont	TX	77701
Hercules Inc	Hercules Plaza, 1313 North Market Street	Wilmington	DE	19894
Ireco, LLC	805 Golf Lane	Bensenville	IL	60106
Jacksonville Electric Authority	21 West Church Street	Jacksonville	FL	32202-3155
Deere & Company	One John Deere Place	Moline	IL	61265
Johns-Manville Corporation	717 17th Street	Denver	CO	80202
Warner-Robins AFB	c/o Mary Edgar, Assistant Chief,	Washington	DC	20004

<b>RESPONDENTS</b>				
<b>CURRENT NAME</b>	<b>STREET ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>
	Environmental Defense Section, Department of Justice 601 D Street NW (Room 8146)			
US Navy, South Port, N.C.	c/o Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice 601 D Street NW (Room 8146)	Washington	DC	20004
Pensacola N.A.S & Whiting Field, Pensacola, FL	c/o Mary Edgar, Assistant Chief, Environmental Defense Section, Department of Justice 601 D Street NW (Room 8146)	Washington	DC	20004

Appendix B

